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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/661,866	09/15/2003	Scott Alexander Ritchie	181-142	8778
23117	7590	09/21/2004	EXAMINER	
NIXON & VANDERHYE, PC 1100 N GLEBE ROAD 8TH FLOOR ARLINGTON, VA 22201-4714			ARK, DARREN W	
			ART UNIT	PAPER NUMBER
			3643	

DATE MAILED: 09/21/2004

Please find below and/or attached an Office communication concerning this application or proceeding.

<b>Office Action Summary</b>	<b>Application No.</b>	<b>Applicant(s)</b>	
	10/661,866	RITCHIE ET AL.  Examiner Darren W. Ark	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

#### Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

#### Status

- 1) Responsive to communication(s) filed on 05 August 2004.  
 2a) This action is FINAL.                    2b) This action is non-final.  
 3) Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

#### Disposition of Claims

- 4) Claim(s) 1-16 is/are pending in the application.  
 4a) Of the above claim(s) 5 and 10 is/are withdrawn from consideration.  
 5) Claim(s) \_\_\_\_\_ is/are allowed.  
 6) Claim(s) 1-4, 6-9 and 11-16 is/are rejected.  
 7) Claim(s) \_\_\_\_\_ is/are objected to.  
 8) Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

#### Application Papers

- 9) The specification is objected to by the Examiner.  
 10) The drawing(s) filed on \_\_\_\_\_ is/are: a) accepted or b) objected to by the Examiner.  
     Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
     Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).  
 11) The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

#### Priority under 35 U.S.C. § 119

- 12) Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).  
 a) All    b) Some \* c) None of:  
 1. Certified copies of the priority documents have been received.  
 2. Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.  
 3. Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

#### Attachment(s)

- |   |   |
|---|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892)   | 4) <input type="checkbox"/> Interview Summary (PTO-413)                     |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948)  | Paper No(s)/Mail Date. _____ .  |
| 3) <input checked="" type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)<br>Paper No(s)/Mail Date <u>12/18/03</u> . | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152) |
|   | 6) <input type="checkbox"/> Other: _____                                    |

## **DETAILED ACTION**

### ***Election/Restrictions***

1. Claims 5 and 10 are withdrawn from further consideration pursuant to 37 CFR 1.142(b) as being drawn to a nonelected Species, there being no allowable generic or linking claim. Election was made without traverse in the reply filed on 8/5/2004.

### ***Claim Rejections - 35 USC § 112***

2. The following is a quotation of the second paragraph of 35 U.S.C. 112:

The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which the applicant regards as his invention.

3. Claim 14 is rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention.

In regard to claim 14, line 2, the term "the adhesive strip" lacks positive antecedent basis.

### ***Claim Rejections - 35 USC § 103***

4. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negatived by the manner in which the invention was made.

5. Claims 1-3, 6-8, 11-16 are rejected under 35 U.S.C. 103(a) as being unpatentable over "The Use of Sticky Ovitrap to Estimate Dispersal of Aedes Aegypti in Northeastern Mexico" by Ordonez-Gonzalez et al. in view of Thomas 6,161,327 or French Pat. No. 2,468,305 to Fages et al.

Ordonez-Gonzalez et al. disclose an ovitrap with a container with the inside being a dark color (plastic 3.8L black containers), a strip member (thin black cardboard) containing an adhesive (glue smeared thereon) and being attachable to the inside of the container (via paper clips), but does not disclose the strip member being at least partially clear or containing an at least partially clear adhesive. Thomas discloses a data acquisition apparatus utilizing a transparent strip member (56 in trap 52; see Figs. 6, 7) which contains an at least partially clear adhesive (transparent; see col. 4, lines 14-16) for purposes of facilitating the tallying of the number and types of flying insects captured on the film. Fages et al. discloses a transparent strip member (double-sided adhesive tape) which contains an at least partially clear adhesive (transparent film of adhesive) and wherein the insect trap has one or more colors attractive to specific types of insects and has the strip member disposed over the colors (see Figs. 1-3). It would have been obvious to a person of ordinary skill in the art at the time of the invention to modify the strip member of Ordonez-Gonzalez such that it is at least partially clear and contains an at least partially clear adhesive in view of Thomas or Fages et al. in order to provide means for facilitating the tallying of the number and types of flying insects caught or provide an adhesive trapping surface which allows the insect attractive colors of the trap to be seen despite being covered by the adhesive trapping surface.

In regard to claims 7, 11, and 14, Ordonez-Gonzalez et al. and Thomas or Fages et al. disclose the internal volume of the container being 3.8L, but do not disclose the volume being 500-2000mL, the strip member width being 10-100mm, or the adhesive applied in a thickness of <2mm to one side of the strip. It would have been an obvious matter of design choice to utilize a container with an internal volume of 500-2000mL, the strip member with a width of 10-100mm, and apply the adhesive to one side of the strip in a thickness of <2mm in order to hold the desired amount of liquid wherein the volume of the container is determined by the amount of space available in the usage environment, provide a suitably sized mosquito trapping surface so that mosquitoes can be reliably retained yet not interfere with the liquid in the container, and provide a sufficient amount of adhesive to trap the mosquitoes yet prevent the strip member from obscuring the view therethrough.

In regard to claim 16, Ordonez-Gonzalez et al. and Thomas or Fages et al. disclose the claimed invention except for the strip member comprising a plurality of strip members. It would have been obvious to one having ordinary skill in the art at the time the invention was made to make the strip member such that it is a plurality of strip members, since it has been held that mere duplication of the essential working parts of a device involves only routine skill in the art, and because a plurality of strip members can be independently replaced as necessary without having to remove the entire single strip member and because plural strip members can be placed at other locations and orientations relative to each other. *St. Regis Paper Co. v. Bemis Co.*, 193 USPQ 8.

6. Claim 4 is rejected under 35 U.S.C. 103(a) as being unpatentable over "The Use of Sticky Ovitraps to Estimate Dispersal of Aedes Aegypti in Northeastern Mexico" by Ordonez-Gonzalez et al. in view of Thomas 6,161,327 or French Pat. No. 2,468,305 to Fages et al. as applied to claim 1 above, and further in view of Sekula 3,816,956.

Ordonez-Gonzalez et al. and Thomas or Fages et al. disclose a pre-coated adhesive (Thomas and Fages et al.), but do not disclose a peel off layer attached to the top of the adhesive. Sekula discloses a peel off layer (26, 28) attached to the top of the adhesive (face 24). It would have been obvious to a person of ordinary skill in the art to employ the peel off layer of Sekula on top of the adhesive of Ordonez-Gonzalez et al. and Thomas or Fages et al. in order to protect and preserve the adhesive surface during handling and before use so that the adhesive is not contaminated or stuck on the user's hands.

7. Claim 9 is rejected under 35 U.S.C. 103(a) as being unpatentable over "The Use of Sticky Ovitraps to Estimate Dispersal of Aedes Aegypti in Northeastern Mexico" by Ordonez-Gonzalez et al. in view of Thomas 6,161,327 or French Pat. No. 2,468,305 to Fages et al. as applied to claim 8 above, and further in view of Kang 5,896,697 or Foster et al. 4,310,985.

Ordonez-Gonzalez et al. and Thomas or Fages et al. do not disclose a mesh extending over the open top. Kang discloses a mesh (40) extending over the open top (generally 20 & open end of 10) for preventing debris from entering the trap and also to prevent the water level within container (10) from increasing too much. Foster et al. discloses a mesh (11) extending over the open top (over open top of 12 and in opening

of 13) to prevent accidental contact of the target area by humans, pets, etc. It would have been obvious to a person of ordinary skill in the art at the time the invention was made to employ the mesh of Kang such that it extends over the open top of Ordonez-Gonzalez et al. and Thomas or Fages et al. in order to prevent both debris from accumulating in the container and too much water from accumulating in the container and also to prevent accidental contact with the target area by humans or pets.

### ***Conclusion***

8. The prior art made of record and not relied upon is considered pertinent to applicant's disclosure. Perich et al. 6,389,740 discloses a container with an internal volume from about 4 oz. (118mL) to about one gallon (3785mL) and that the egg laying structure can be secured to the container with adhesive.

Art Unit: 3643

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Darren W. Ark whose telephone number is (703) 305-3733. The examiner can normally be reached on M-Th, 8:00am-6:30pm.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Peter M. Poon can be reached on (703) 308-2574. The fax phone number for the organization where this application or proceeding is assigned is 703-872-9306.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).



Darren W. Ark  
Primary Examiner  
Art Unit 3643

DWA